

ORDINANCE NO. 2011-03

AN ORDINANCE OF THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTER 6.5 OF THE VILLAGE'S CODE OF ORDINANCES ADDRESSING FLOOD PREVENTION AND PROTECTION IN THE VILLAGE OF BISCAYNE PARK, FLORIDA; UPDATING AND AMENDING DEFINITIONS; ELIMINATING REFERENCES TO MANUFACTURED HOMES; AMENDING THE DEFINITION OF SUBSTANTIAL IMPROVEMENT; AND REQUIRING CERTAIN TECHNICAL DATA TO BE FILED; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 1, 1992, the Village Commission adopted Ordinance No. 277, in compliance with federally imposed requirements to protect the public health, safety and general welfare by minimizing flood losses in the flood hazard areas of Biscayne Park; and,

WHEREAS, since the adoption of Ordinance No. 277, the State of Florida has updated its Flood Damage Prevention Ordinance; and,

WHEREAS, in 2009 the Village, in order to be consistent and in compliance with the State of Florida's Ordinance, the Village Commission of the Village of Biscayne Park believes it to be in the best interests of its citizenry to repeal the existing sections of the Code addressing flood damage prevention and replace it with a compliant ordinance; and,

WHEREAS, the Village thought it prudent to remove reference to manufactured homes as the Village does not have any manufactured homes nor any zoning relating to manufactured homes, and the Village desires to amend certain definitions and ensure that certain technical data is provided; and, now, therefore,

BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:

**Section 1.** Each and all the foregoing Whereas clauses are true and correct and are incorporated herein.

**Section 2.** Chapter 6.5 of the Village's Code of Ordinances is hereby amended as follows:

\* \* \*

**Chapter 6.5 FLOOD DAMAGE PREVENTION**

1 **ARTICLE I. IN GENERAL**

2  
3 **Sec. 6-5.1. Statutory authorization; findings of fact; purpose; and objectives.**

4  
5 **(A) Statutory authorization.**

6  
7 The Legislature of the State of Florida has authorized and delegated in Chapter 166,  
8 Florida Statutes, the responsibility of local government units to adopt regulations designed to  
9 promote the public health, safety, and general welfare of its citizenry.

10  
11 **(B) Findings of fact.**

12  
13 (1) The flood hazard areas of the Village of Biscayne Park are subject to periodic inundation,  
14 which results in loss of life, property, health and safety hazards, disruption of commerce and  
15 governmental services, extraordinary public expenditures for flood protection and relief, and  
16 impairment of the tax base, all of which adversely affect the public health, safety and general  
17 welfare.

18  
19 (2) These flood losses are caused by the cumulative effect of obstructions in floodplains  
20 causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by  
21 uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-  
22 proofed, or otherwise unprotected from flood damages.

23  
24 **(C) Statement of purpose.**

25  
26 It is the purpose of this chapter to save lives, promote the public health, safety and general  
27 welfare, and minimize public and private losses due to flood conditions in specific areas by  
28 provisions designed to:

29  
30 (1) Restrict or prohibit uses which are dangerous to life, health, safety and property due to  
31 water or erosion hazards, which result in damaging increases in erosion or in flood heights and  
32 velocities;

33  
34 (2) Require that uses vulnerable to floods including facilities which serve such uses be  
35 protected against flood damage throughout their intended life span;

36  
37 (3) Control the alteration of natural floodplains, stream channels, and natural protective  
38 barriers which are involved in the accommodation of flood waters;

39  
40 (4) Control filling, grading, dredging and other development which may increase erosion or  
41 flood damage; and

42  
43 (5) Prevent or regulate the construction of flood barriers which will unnaturally divert  
44 floodwaters or which may increase flood hazards to other lands.

45  
46 **(D) Objectives.**

1 The objectives of this chapter are to:

- 2
- 3 (1) Protect human life, health and to eliminate or minimize property damage;
- 4
- 5 (2) Minimize expenditure of public money for costly flood control projects;
- 6
- 7 (3) Minimize the need for rescue and relief efforts associated with flooding and generally
- 8 undertaken at the expense of the general public;
- 9
- 10 (4) Minimize prolonged business interruptions;
- 11
- 12 (5) Minimize damage to public facilities and utilities such as water and gas mains, electric,
- 13 telephone and sewer lines, roadways, and bridges and culverts located in floodplains;
- 14
- 15 (6) Maintain a stable tax base by providing for the sound use and development of flood prone
- 16 areas in such a manner as to minimize flood blight areas; and
- 17
- 18 (7) Ensure that potential homebuyers are notified that property is in a flood hazard area.
- 19

20 **Sec. 6.5-2. Definitions.**

21  
22 Unless specifically defined below, words or phrases used in this chapter shall be  
23 interpreted so as to give them the meaning they have in common usage and to give this chapter  
24 its most reasonable application.  
25

26 **Accessory structure** (Appurtenant structure) means a structure that is located on the same parcel  
27 of property as the principal structure and the use of which is incidental to the use of the principal  
28 structure. Accessory structures should constitute a minimal investment, may not be used for  
29 human habitation, and be designed to have minimal flood damage potential. Examples of  
30 accessory structures are detached garages, carports and storage sheds.  
31

32 **Appeal** means a request for a review of the Floodplain Administrator's interpretation of any  
33 provision of this chapter or a request for a variance.  
34

35 **Area of shallow flooding** means a designated AO or AH Zone on the community's Flood  
36 Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly  
37 defined channel does not exist, where the path of flooding is unpredictable and indeterminate,  
38 and where velocity flow may be evident. Such flooding is characterized by ponding or sheet  
39 flow.  
40

41 **Area of special flood hazard** is the land in the floodplain within a community subject to a one-  
42 percent or greater chance of flooding in any given year. This term is synonymous with the phrase  
43 "special flood hazard area."  
44

45 **Base flood** means the flood having a one percent chance of being equaled or exceeded in any  
46 given year (also called the "100-year flood" and the "regulatory flood"). Base flood is the term  
47 used throughout this chapter.

1  
2 **Base Flood Elevation** means the water-surface elevation associated with the base flood.

3  
4 **Basement** means any portion of a building having its floor sub-grade (below ground level) on all  
5 sides.

6  
7 **Building** – see **Structure**.

8  
9 **Datum** A reference surface used to ensure that all elevation records are properly related. The  
10 current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is  
11 expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

12  
13 **Development** means any man-made change to improved or unimproved real estate, including,  
14 but not limited to buildings or other structures, mining, dredging, filling, grading, paving,  
15 excavating, drilling operations, or storage of materials or equipment.

16  
17 **Elevated building** means a non-basement building built to have the lowest floor elevated above  
18 the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

19  
20 **Encroachment** means the advance or infringement of uses, plant growth, fill, excavation,  
21 buildings, permanent structures or development into a floodplain, which may impede or alter the  
22 flow capacity of a floodplain.

23  
24 **Existing Construction** means, for the purposes of floodplain management, structures for which  
25 “the start of construction” commenced before September 29, 1972. Existing construction  
26 means, for the purposes of determining rates structures for which the “start of construction”  
27 commenced before January 1, 1975. This term may also be referred to as “existing structures”.

28  
29 **Flood or flooding** means:

30  
31 (a) A general and temporary condition of partial or complete inundation of normally dry land  
32 areas from:

33  
34 (1) The overflow of inland or tidal waters.

35  
36 (2) The unusual and rapid accumulation or runoff of surface waters from any source.

37  
38 (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined  
39 in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the  
40 surface of normally dry land areas, as when earth is carried by a current of water and deposited  
41 along the path of the current.

42  
43 (b) The collapse or subsidence of land along a shore of a lake or other body of water as the  
44 result of erosion or undermining caused by waves or currents of water exceeding anticipated  
45 cyclical levels or suddenly caused by an unusually high water level in a natural body of water,  
46 accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an

1 abnormal tidal surge or by some similarly unusual and unforeseeable event which results in  
2 flooding as defined in paragraph (a) (1) of this definition.

3  
4 **Flood Boundary and Floodway Map (FBFM)** means the official map of the community on  
5 which the Federal Emergency Management Agency (FEMA) has delineated the areas of special  
6 flood hazard and regulatory floodways.

7  
8 **Flood Hazard Boundary Map (FHBM)** means an official map of the community, issued by  
9 FEMA, where the boundaries of the areas of special flood hazard have been identified as only  
10 Approximate Zone A.

11  
12 **Flood Insurance Rate Map (FIRM)** means an official map of the community, issued by  
13 FEMA, which delineated both the areas of special flood hazard and the risk premium zones  
14 applicable to the community.

15  
16 **Flood Insurance Study (FIS)** means the official hydrology and hydraulics report provided by  
17 FEMA. The study contains an examination, evaluation, and determination of flood hazards, and,  
18 if appropriate, corresponding water surface elevations, or an examination, evaluation, and  
19 determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study  
20 may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other  
21 related data and information.

22  
23 **Floodplain** means any land area susceptible to being inundated by water from any source (see  
24 definition of "flooding").

25  
26 **Floodplain management** means the operation of an overall program of corrective and  
27 preventive measures for reducing flood damage and preserving and enhancing, where possible,  
28 natural resources in the floodplain, including but not limited to emergency preparedness plans,  
29 flood control works, floodplain management regulations, and open space plans.

30  
31 **Floodplain Administrator** is the individual appointed to administer and enforce the floodplain  
32 management regulations of the community.

33  
34 **Floodplain management regulations** means this chapter and other zoning ordinances,  
35 subdivision regulations, building codes, health regulations, special purpose ordinances (such as  
36 floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications  
37 of police power which control development in flood-prone areas. This term describes Federal,  
38 State of Florida, or local regulations in any combination thereof, which provide standards for  
39 preventing and reducing flood loss and damage.

40  
41 **Floodproofing** means any combination of structural and non-structural additions, changes, or  
42 adjustments to structures, which reduce or eliminate flood damage to real estate or improved real  
43 property, water and sanitary facilities, structures and their contents.

44  
45 **Floodway** means the channel of a river or other watercourse and the adjacent land areas that  
46 must be reserved in order to discharge the base flood without cumulatively increasing the water  
47 surface elevation more than a designated height.

1  
2 **Floodway fringe** means that area of the one-percent (base or 100-year) floodplain on either side  
3 of the regulatory floodway.  
4

5 **Freeboard** means the additional height, usually expressed as a factor of safety in feet, above a  
6 flood level for purposes of floodplain management. Freeboard tends to compensate for many  
7 unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological  
8 effect of urbanization of the watershed, which could contribute to flood heights greater than the  
9 heights calculated for a selected frequency flood and floodway conditions.  
10

11 **Free of Obstruction** means any type of lower area enclosure or other construction element will  
12 not obstruct the flow of velocity water and wave action beneath the lowest horizontal structural  
13 member of the lowest floor of an elevated building during a base flood event.  
14

15 **Functionally dependent use** means a use that cannot be used for its intended purpose unless it is  
16 located or carried out in close proximity to water, such as a docking or port facility necessary for  
17 the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not  
18 include long-term storage, manufacture, sales, or service facilities.  
19

20 **Hardship** as related to variances from this chapter means the exceptional difficulty associated  
21 with the land that would result from a failure to grant the requested variance. The community  
22 requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere  
23 economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations,  
24 physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot,  
25 as a rule, qualify as an exceptional hardship. All of these problems can be resolved through  
26 other means without granting a variance, even if the alternative is more expensive, or requires  
27 the property owner to build elsewhere or put the parcel to a different use than originally  
28 intended.  
29

30 **Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the  
31 start of construction, next to the proposed walls of a structure.  
32

33 **Historic Structure** means any structure that is:  
34

35 a) Listed individually in the National Register of Historic Places (a listing maintained by the  
36 Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting  
37 the requirements for individual listing on the National Register;  
38

39 b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the  
40 historical significance of a registered historic or a district preliminarily determined by the  
41 Secretary to qualify as a registered historic district;  
42

43 c) Individually listed on the Florida inventory of historic places, which has been approved by  
44 the Secretary of the Interior; or  
45

46 d) Individually listed on a local inventory of historic places in communities with historic  
47 preservation programs that have been certified either:

1. By the approved Florida program as determined by the Secretary of the Interior, or
2. Directly by the Secretary of the Interior.

**Lowest adjacent grade** means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design standards of this chapter.

**Market value** means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values as determined by the Miami-Dade County Property Appraisers Records.

**Mean Sea Level** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

**National Geodetic Vertical Datum (NGVD) of 1929** means a vertical control used as a reference for establishing varying elevations within the floodplain.

**New Construction** means, for floodplain management purposes, any structure for which the "start of construction" commenced on or after September 29, 1972. The term also includes any subsequent improvements to such structures. For flood insurance rates, structures for which the start of construction commenced on or after December 31, 1974, and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD) of 1988** means a vertical control used as a reference for establishing varying elevations within the floodplain.

**Principally above ground** means that at least 51 percent of the actual cash value of the structure is above ground.

**Program deficiency** means a defect in the community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program.

1 **Public safety and nuisance** means anything which is injurious to safety or health of the entire  
2 community or a neighborhood, or any considerable number of persons, or unlawfully obstructs  
3 the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream,  
4 canal, or basin.  
5

6 **Reasonably safe from flooding** means base flood waters will not inundate the land or damage  
7 structures to be removed from the SFHA and that any subsurface waters related to the base flood  
8 will not damage existing or proposed buildings.  
9

10 **Recreational vehicle** means a vehicle that is:

- 11  
12 a) Built on a single chassis;  
13  
14 b) 400 square feet or less, when measured at the largest horizontal projection;  
15  
16 c) Designed to be self-propelled or permanently towable by a light duty truck; and  
17  
18 d) Designed primarily not for use as a permanent dwelling but as temporary living quarters  
19 for recreational, camping, travel, or seasonal use.  
20

21 **Regulatory floodway** means the channel of a river or other watercourse and the adjacent land  
22 areas that must be reserved in order to discharge the base flood without cumulatively increasing  
23 the water surface elevation more than a designated height.  
24

25 **Remedy a deficiency or violation** means to bring the regulation, procedure, structure or other  
26 development into compliance with State of Florida, Federal, or local floodplain management  
27 regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the  
28 impacts may be reduced include protecting the structure or other affected development from  
29 flood damages, implementing the enforcement provisions of this chapter or otherwise deterring  
30 future similar violations, or reducing Federal financial exposure with regard to the structure or  
31 other development.  
32

33 **Repetitive loss** means flood related damage sustained by a structure on two separate occasions  
34 during a 10-year period for which the cost of repairs at the time of each such flood event, on the  
35 average, equals or exceeds 25 percent of the market value of the structure before the damage  
36 occurred.  
37

38 **Riverine** means relating to, formed by, or resembling a river (including tributaries), stream,  
39 brook, etc.  
40

41 **Shallow flooding** – see **area of shallow flooding**.

42  
43 **Special flood hazard area** – see **area of special flood hazard**.  
44

45 **Start of construction** means, for other than new construction and substantial improvements  
46 under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and  
47 means the date the building permit was issued, provided the actual start of construction, repair,



1 reconstruction, or improvement was within 180 days of the permit date. The actual start means  
2 the first placement of permanent construction of a building on a site, such as the pouring of slabs  
3 or footings, installation of piles, or construction of columns. Permanent construction does not  
4 include land preparation, such as clearing, grading and filling; nor does it include the installation  
5 of streets and/or walkways; nor does it include excavation for a basement, footings, piers or  
6 foundations or the erection of temporary forms; nor does it include the installation on the  
7 property of accessory buildings, such as garages or sheds not occupied as dwelling units or not  
8 part of the main building. For substantial improvement, the actual start of construction means  
9 the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not  
10 that alteration affects the external dimensions of the building.

11  
12  
13 **Structure** means, for floodplain management purposes, a walled and roofed building, including  
14 gas or liquid storage tank that is principally above ground.

15  
16 **Substantial damage** means damage of any origin sustained by a structure whereby the cost of  
17 restoring the structure to its before damaged condition would equal or exceed 50 percent of the  
18 market value of the structure before the damage occurred. This term also includes "repetitive  
19 loss" structures as defined herein.

20  
21 **Substantial improvement** means any combination of additions, rehabilitation, reconstruction,  
22 alteration, or other improvements to a structure, taking place during a one-year period in all  
23 zones, in which the cumulative cost equals or exceeds 50 percent of the market value of the  
24 structure. The market value of the structure shall be the appraised value of the structure prior to  
25 the start of the initial work.

26 "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling,  
27 floor, or other structural part of the building commences, whether or not that alteration affects  
28 the external dimensions of the structure. This term includes structures which incur substantial  
29 damage regardless of actual work performed. The term does not include either:

- 30  
31 (1) Any project for improvement of a structure required to correct existing violations of State  
32 or local health, sanitary or safety code specifications which have been identified by the  
33 local Building Official and which are the minimum necessary to assure safe living  
34 conditions;
- 35  
36 (2) Any alteration of a historic structure, provided that the alteration will not preclude the  
37 structure's continued designation as a historic structure for which a variance has been  
38 granted pursuant to this article; or
- 39  
40 (3) Repairs for damage from any origin which are determined to be less than substantial  
41 damage.

42  
43 **Variance** is a grant of relief from the requirements of this chapter.  
44

1 **Violation** means the failure of a structure or other development to be fully compliant with the  
2 requirements of this chapter. A structure or other development without the elevation certificate,  
3 other certifications, or other evidence of compliance required in this chapter is presumed to be in  
4 violation until such time as that documentation is provided.

5  
6 **Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on  
7 or over which waters flow at least periodically. Watercourse includes specifically designated  
8 areas in which substantial flood damage may occur.

9  
10 **Water surface elevation** means the height, in relation to the National Geodetic Vertical Datum  
11 (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various  
12 magnitudes and frequencies in the floodplains of coastal or riverine areas.

13 **Sec. 6.5-3. General provisions.**

14  
15 **(A) Lands to which this chapter applies.**

16  
17 This chapter shall apply to all areas of special flood hazard within the jurisdiction of the  
18 Village of Biscayne Park. The Flood Zones applicable to the Village are the AE and X Zones.

19  
20 **(B) Basis for establishing the areas of special flood hazard.**

21  
22 The areas of special flood hazard identified by the Federal Emergency Management  
23 Agency in the Flood Insurance Study (FIS) for the Village of Biscayne Park, dated October 6,  
24 2009, with the accompanying maps dated September 11, 2009 (Revised) and other supporting  
25 data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of  
26 this chapter. The Flood Insurance Study and Flood Insurance Rate Maps consisting of Map  
27 Numbers 12086C0139L, 12806C0143L and 12086C0306L are on file at the Village of Biscayne  
28 Park Village Hall.

29  
30 **(C) Requirement to submit new technical data.**

31  
32 As provided in Title 44 Code of Federal Regulations, Subpart 65.3, the Village's base  
33 flood elevations may increase or decrease resulting from physical changes affecting flooding  
34 conditions. As soon as practicable, but not later than six months after the date such information  
35 becomes available, the Village shall notify FEMA through the Administrator of the changes by  
36 submitting technical or scientific data in accordance with this part. Such a submission is  
37 necessary so that upon confirmation of those physical changes affecting flooding conditions, risk  
38 premium rates and flood plain management requirements will be based upon current data.

39  
40 **(D) Designation of floodplain administrator.**

41 The Village Commission of the Village of Biscayne Park, Florida, hereby appoints the  
42 Village Building Official to administer and implement the provisions of this chapter and is herein  
43 referred to as the Floodplain Administrator.

44  
45 **(E) Establishment of development permit.**

46 A development permit shall be required in conformance with the provisions of this  
47 chapter prior to the commencement of any development activities.

1  
2 **(F) Compliance.**  
3

4 No structure or land shall hereafter be located, extended, converted or structurally altered  
5 without full compliance with the terms of this chapter and other applicable regulations.  
6

7  
8 **(G) Abrogation and greater restrictions.**  
9

10 This chapter is not intended to repeal, abrogate, or impair any existing easements,  
11 covenants, or deed restrictions. However, where this chapter and another conflict or overlap,  
12 whichever imposes the more stringent restrictions shall prevail.  
13

14 **(H) Interpretation.**  
15

16 In the interpretation and application of this chapter all provisions shall be:  
17

- 18 (1) Considered as minimum requirements;  
19  
20 (2) Liberally construed in favor of the governing body; and  
21  
22 (3) Deemed neither to limit nor repeal any other powers granted under State of Florida  
23 statutes.  
24

25 **(I) Warning and disclaimer of liability.**  
26

27 The degree of flood protection required by this chapter is considered reasonable for  
28 regulatory purposes and is based on scientific and engineering consideration. Larger floods can  
29 and will occur on rare occasions. Flood heights may be increased by man-made or natural  
30 causes. This chapter does not imply that land outside the areas of special flood hazard or uses  
31 permitted within such areas will be free from flooding or flood damages. This chapter shall not  
32 create liability on the part of the Village Commission of the Village of Biscayne Park or by any  
33 officer or employee thereof for any flood damages that result from reliance on this chapter or any  
34 administrative decision lawfully made thereunder.  
35

36 **(J) Penalties for violation.**  
37

38 Violation of the provisions of this chapter or failure to comply with any of its  
39 requirements, including violation of conditions and safeguards established in connection with  
40 grants of variance or special exceptions, shall be punishable for a non-criminal violation. Any  
41 person who violates this chapter or fails to comply with any of its requirements shall, upon  
42 adjudication therefore, be fined not more than \$500, and in addition, shall pay all costs and  
43 expenses involved in the case. Each day such violation continues shall be considered a separate  
44 offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such  
45 other lawful actions as are necessary to prevent or remedy any violation.  
46

47 **Sec. 6.5-4. Administration.**

1  
2 **(A) Permit procedures.**  
3

4 Application for a Development Permit shall be made to the Floodplain Administrator on  
5 forms furnished by him or her prior to any development activities, and may include, but not be  
6 limited to, the following plans in duplicate drawn to scale showing the nature, location,  
7 dimensions, and elevations of the area in question; existing and proposed structures, earthen fill,  
8 storage of materials or equipment, drainage facilities, and the location of the foregoing.  
9 Specifically, the following information is required:

10  
11 **(1) Application Stage:**  
12

- 13 a) Elevation in relation to mean sea level of the proposed lowest floor (including  
14 basement) of all buildings;  
15  
16 b) Elevation in relation to mean sea level to which any non-residential building will  
17 be flood-proofed;  
18  
19 c) Certificate from a registered professional engineer or architect that the non-  
20 residential flood-proofed building will meet the flood-proofing criteria in Section 6.5-4(A)(2)  
21 and Section 6.5-5(B)(2);  
22  
23 d) Description of the extent to which any watercourse will be altered or relocated as  
24 a result of proposed development; and  
25

26 **(2) Construction Stage:**  
27

28 Upon placement of the lowest floor, or flood-proofing by whatever construction means, or  
29 bottom of the lowest horizontal structural member it shall be the duty of the permit holder to  
30 submit to the Floodplain Administrator a certification of the NGVD or NAVD elevation of the  
31 lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member of  
32 the lowest floor as built, in relation to mean sea level. Said certification shall be prepared by or  
33 under the direct supervision of a registered land surveyor or professional engineer and certified  
34 by same. When flood proofing is utilized for a particular building said certification shall be  
35 prepared by or under the direct supervision of a professional engineer or architect and certified  
36 by same. Any work undertaken prior to submission of the certification shall be at the permit  
37 holder's risk. The Floodplain Administrator shall review the lowest floor and flood-proofing  
38 elevation survey data submitted. The permit holder immediately and prior to further progressive  
39 work being permitted to proceed shall correct violations detected by such review. Failure to  
40 submit the survey or failure to make said corrections required hereby shall be cause to issue a  
41 stop-work order for the project.  
42

43 **(B) Duties and responsibilities of the floodplain administrator.**  
44

45 Duties of the Administrator shall include, but are not be limited to:

- 46  
47 **(1) Review permits to assure sites are reasonably safe from flooding;**

(2) Review all development permits to assure that the permit requirements of this chapter have been satisfied;

(3) Require copies of additional Federal, State of Florida, or local permits, especially as they relate to Chapters 161.053; 320.8249; 320.8359; 373.036; 380.05; 381.0065; and 553, Part IV, Florida Statutes, be submitted along with the development permit application and maintain such permits on file with the development permit;

(4) Notify adjacent communities, the Florida Department of Economic Opportunity Division of Emergency Management – NFIP Coordinating Office, South Florida Water Management District, the Federal Emergency Management Agency, and other Federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;

(5) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-Zones) of all new and substantially improved buildings, in accordance with Section 6.5-5(B)(1) and (2) and Section E (2), respectively;

(7) Verify and record the actual elevation (in relation to mean sea level) to which the new and substantially improved buildings have been flood-proofed, in accordance with Section 6.5-5(B)(2);

(8) Review certified plans and specifications for compliance. When flood-proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building, together with attendant utilities and sanitary facilities, below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with Section 6.5-5(B)(2) of this chapter;

(9) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section;

(10) When base flood elevation data and floodway data have not been provided in accordance with Section 6.5-3(B), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of Section 6.5-5;

(11) Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA, and

1  
2 (12) Where Base Flood Elevation is utilized, obtain and maintain records of lowest floor and  
3 floodproofing elevations for new construction and substantial improvements in accordance with  
4 Section 6.5-5(B)(1) and (2), respectively.  
5

6 **Sec. 6.5-5. Provisions for flood hazard.**  
7

8 **(A) General standards.**  
9

10 The Village is comprised of the following Flood Zones: AE and X. In all areas of  
11 special flood hazard, all development sites including new construction and substantial  
12 improvements shall be reasonably safe from flooding, and meet the following provisions:  
13

14 (1) New construction and substantial improvements shall be designed or modified and  
15 adequately anchored to prevent flotation, collapse, and lateral movement of the structure  
16 resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;  
17

18 (2) New construction and substantial improvements shall be constructed with materials and  
19 utility equipment resistant to flood damage;  
20

21 (3) New construction and substantial improvements shall be constructed by methods and  
22 practices that minimize flood damage;  
23

24 (4) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service  
25 facilities, including duct work, shall be designed and/or located so as to prevent water from  
26 entering or accumulating within the components during conditions of flooding;  
27

28 (5) New and replacement water supply systems shall be designed to minimize or eliminate  
29 infiltration of flood waters into the systems;  
30

31 (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate  
32 infiltration of flood waters into the systems and discharges from the systems into flood waters;  
33

34 (7) On-site waste disposal systems shall be located and constructed to avoid impairment to  
35 them or contamination from them during flooding;  
36

37 (8) Any alteration, repair, reconstruction or improvements to a building that is in compliance  
38 with the provisions of this chapter shall meet the requirements of "new construction" as  
39 contained in this chapter;  
40

41 (9) Any alteration, repair, reconstruction or improvements to a building that is not in  
42 compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is  
43 not furthered, extended, or replaced;  
44

45 (10) All applicable additional Federal, State of Florida, and local permits shall be obtained and  
46 submitted to the Floodplain Administrator along with the application for development permit.

Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to, the following:

(a) South Florida Water Management District: in accordance with Chapter 373.036 Florida Statutes, Section (2) (a) – Flood Protection and Floodplain Management;

(b) Department of Economic Opportunity [in accordance with Section 380.05, Florida Statutes - Areas of Critical State Concern, and Chapter 553, Part IV, Florida Statutes, Florida Building Code];

(c) Department of Health: in accordance with Section 381.0065, Florida Statutes - Onsite Sewage Treatment and Disposal Systems; and

(11) Standards for Subdivision Proposals and other new Proposed Development:

(a) Such proposals shall be consistent with the need to minimize flood damage;

(b) Such shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and

(c) Such proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(12) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction.

(13) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

**(B) Specific standards.**

In all A-Zones where base flood elevation data have been provided (Zone AE within the Village), as set forth in Section 6.5-3(B), the following provisions, in addition to those set forth in Section 6.5-5(A), shall apply:

(1) *Residential Construction.* All new construction and substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of Section 6.5-5(B)(3).

(2) *Non-Residential Construction.* All new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings

located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components, together with attendant utilities and sanitary facilities, below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Floodplain Administrator.

(3) *Enclosures below the Lowest Floor.* New construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:

(i) Provide a minimum of two openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and

(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.

(b) Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

(c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

(4) Standards for Recreational Vehicles

(a) All recreational vehicles must either:

(i) Be on the site for fewer than 180 consecutive days,

(ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or



(iii) Meet all the requirements for new construction, including anchoring and elevation standards in accordance with Section 6.5-5(B)(4)(a) and (b).

(5) Standards for waterways with established Base Flood Elevations, but without Regulatory Floodways

Located within the areas of special flood hazard established in Section 6.5-3(B), where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (Zones AE), the following provisions, in addition to those set forth in Section 6.5-5(B)(1) through (5), shall apply:

(a) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(b) Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies – with the community’s endorsement – for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency (FEMA).

(6) Standards for waterways with established Base Flood Elevations and Floodways.

Located within areas of special flood hazard established in Section 6.5-3(B), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the high velocity of flood waters which carry debris, potential projectiles and have significant erosion potential, the following provisions, in addition to those set forth in Section 6.5-5(B)(1) through (5), shall apply:

(a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydrologic and hydraulic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.

(b) Development activities including new construction and substantial improvements within the regulatory floodway that increase the base flood elevation may be allowed, provided that the developer or applicant first applies – with the community’s endorsement – for a conditional FIRM revision, and receives the approval of FEMA.

(c) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Section 6.5-5(B)(7)(a).

1  
2 **(C) Specific standards for A-zones without base flood elevations and regulatory**  
3 **floodways.**  
4

5 Located within the areas of special flood hazard established in Section 6.5-3(B), where  
6 there exist A Zones (AE within the Village) for which no base flood elevation data and  
7 regulatory floodway have been provided or designated by the Federal Emergency Management  
8 Agency, the following provisions shall apply:  
9

10 (1) Require standards of Section 6.5-5(A).  
11

12 (2) The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood  
13 elevation and floodway data available from a Federal, State of Florida, or any other source, in  
14 order to administer the provisions of this chapter. When such data is utilized, provisions of  
15 Section 6.5-5(B) shall apply. The Floodplain Administrator shall:  
16

17 a) Obtain the elevation (in relation to the mean sea level) of the lowest floor (including  
18 the basement) of all new and substantially improved structures,  
19

20 b) Obtain, if the structure has been floodproofed in accordance with the requirements of  
21 Section 6.5-5(B)(2), the elevation in relation to the mean sea level to which the structure has  
22 been floodproofed, and  
23

24 c) Maintain a record of all such information.  
25

26 (4) Notify, in riverine situations, adjacent communities, the Florida Department of Economic  
27 Opportunity – NFIP Coordinating Office, and the South Florida Water Management District  
28 prior to any alteration or relocation of a watercourse, and submit copies of such notifications to  
29 FEMA.  
30

31 (5) Assure that the flood carrying capacity within the altered or relocated portion of any  
32 watercourse is maintained.  
33

34 (6) When the data is not available from any source, in accordance with standard set forth in  
35 Section 6.5-5(C)(2) of this Section, the lowest floor of the structure shall be elevated to no lower  
36 than three feet above the highest adjacent grade. Standards set forth in Section 6.5-5(B) shall  
37 apply.  
38

39 **Sec. 6.5-6. Appeal and Variance Procedures.**  
40

41 **(A) Appeals Procedures**  
42

43 Any appeal of the decision of the Floodplain Management Administrator shall first be heard by  
44 the Village's Planning and Zoning Board, which shall make a recommendation to the Village  
45 Commission. After the Village Commission has received the recommendation from the  
46 Planning & Zoning Board, the appeal will be heard during a public hearing, and a final decision  
47 issued by the Village Commission. The standard of review for both the Board and the Village

Commission is whether the decision of the Floodplain Management Administrator erred in in any requirement, decision, or determination in the enforcement or administration of this chapter. The Village Commission shall issue the final decision as to appeal. Any person aggrieved by the decision of the Village Commission may appeal, via appellate certiorari review, such decision to the Circuit Court.

**(B) Variance Procedures.**

In acting upon a variance application, the Planning and Zoning Board shall make a recommendation to the Village Commission. After it has received the recommendation of the Village's Planning & Zoning Board, the Village Commission shall then make a final decision on the variance request, during a public hearing. Both the Board and the Village Commission shall utilize, amongst other relevant technical provisions of the code, the following criteria and the specific requirements of sections (C), (D), (E), and (F), below:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger of life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

1  
2 **(C) Conditions for Variances.**  
3

4 (1) Variances shall only be issued when there is:  
5

6 a) A showing of good and sufficient cause;  
7

8 b) A determination that failure to grant the variance would result in exceptional  
9 hardship; and  
10

11 c) A determination that the granting of a variance will not result in increased flood  
12 heights, additional threats to public expense, create nuisance, cause fraud on or victimization of  
13 the public, or conflict with existing local laws or ordinances.  
14

15 (2) Variances shall only be issued upon a determination that the variance is the minimum  
16 necessary deviation from the requirements of this chapter.  
17

18 (3) Variances shall not be granted after-the-fact.  
19

20 (4) The Floodplain Administrator shall maintain the records of all variance actions, including  
21 justification for their issuance or denial, and report such variances in the community's NFIP  
22 Biennial Report or upon request to FEMA and the State of Florida, Department of Economic  
23 Opportunity, NFIP Coordinating Office.  
24

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

(3) A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Clerk of Court and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

Variances may be issued for the repair or rehabilitation of “historic” structures – meeting the definition in this chapter – upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a “historic” structure.

Variances shall not be issued within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.

Any person aggrieved by the decision of the Village Commission may appeal, via appellate certiorari review, such decision to the Circuit Court.

**Ordinance No. 2011-03**  
**Page 21 of 29**

1 **ARTICLE II. ADMINISTRATION**

2  
3 **Sec. 6.5-16. Enforcement.**

4  
5 The Village Building Official shall administer and enforce the provisions of this chapter within  
6 Biscayne Park.

7  
8 **Sec. 6.5-17. Rules for interpreting district boundaries.**

9  
10 The boundaries of the flood hazard areas shown on the official flood insurance rate map may be  
11 determined by scaling distances. Required interpretations of those maps for precise locations of  
12 said boundaries shall be made by the Village Building Official.

13  
14 **Sec. 6.5-18. Variances.**

15  
16 (a) The village commission shall have the authority and duty to consider and act upon  
17 applications for a variance from these regulations for properties located within the incorporated  
18 areas of Biscayne Park as hereinafter set forth. The village commission is hereby advised that in  
19 granting any variances hereunder, said official shall consider the purposes of the National Flood  
20 Insurance Program as specified in Title 44, Code of Federal Regulations. Furthermore, the  
21 village commission shall consider the fact that an annual report on variances granted shall be  
22 submitted to the National Flood Insurance Administration, which report is the basis for continued  
23 availability of flood insurance to the inhabitants of the incorporated areas of Biscayne Park, and  
24 therefore variances shall be granted with extreme caution.

25  
26 (b) The village commission may grant variances from the terms of this chapter as will not be  
27 contrary to the public interest, where owing to special conditions, a literal enforcement of the  
28 provisions hereof will result in unnecessary hardship, and so the spirit of the regulations shall be  
29 observed and substantial justice done; provided, that the variance will be in harmony with the  
30 general purpose and intent of this chapter and that the same is the minimum variance that will  
31 permit the reasonable use of the premises. Upon receipt of all necessary information including a  
32 staff report, the village commission shall review the information and render a decision, either  
33 approving, modifying or denying the request. A copy of said decision shall be published in a  
34 newspaper of general circulation. All approvals or modifications shall not be effective until ten  
35 (10) days after the village commission's decision is published in a newspaper of general  
36 circulation. A courtesy notice containing the decision of the village commission may be mailed  
37 to adjacent and abutting property owners of record, their tenants or their agents, that are duly  
38 noted on the application. The failure to mail or receive such courtesy notice shall not affect any  
39 action or proceedings taken hereunder.

40  
41 (c) Variances may be issued by the village commission for the reconstruction, rehabilitation  
42 or restoration of structures listed on the National Register of Historic Places or the State  
43 Inventory of Historic Places without regard to the procedures set forth in the remainder of this  
44 section, except for subsection (d)(12), and provided the proposed reconstruction, rehabilitation,  
45 or restoration will not result in the loss of historic designation.

1 (d) In passing upon all such applications except those pursuant to subsection (c), the village  
2 commission, shall consider all technical evaluations, all relevant factors, all standards specified  
3 in other sections of this chapter, and:  
4

5 (1) The danger that material may be swept onto other lands to the injury of  
6 others;  
7

8 (2) The danger to life and property due to flooding or erosion damage;  
9

10 (3) The susceptibility of the proposed facility and its contents to flood damage  
11 and the effect of such damage on the individual owner;  
12

13 (4) The importance of the services provided by the proposed facility to the  
14 community;  
15

16 (5) The necessity of the facility to be located on the waterfront;  
17

18 (6) The availability of alternative locations, not subject to flooding or erosion  
19 damage, for the proposed use;  
20

21 (7) The compatibility of the proposed use with existing and anticipated  
22 development;  
23

24 (8) The relationship of the proposed use to the comprehensive plan and  
25 floodplain management program for that area;  
26

27 (9) The safety of access to the property in times of flood for ordinary and  
28 emergency vehicles;  
29

30 (10) The expected heights, velocity, duration, rate of rise and sediment  
31 transport of the flood waters and the effects of wave action, if applicable,  
32 expected at the sites;  
33

34 (11) Upon consideration of the factors listed above, and the purposes of this  
35 chapter, the village commission may attach such conditions, limitations, and  
36 restrictions to any variance as deemed necessary to further the purposes of this  
37 chapter;  
38

39 (12) Criteria for variances:

40 a. Variances shall only be granted upon a determination that the  
41 variance is the minimum necessary, considering the flood hazard, to afford  
42 relief; and in the instance of a historical building, a determination that the  
43 variance is the minimum necessary in order not to destroy the historic  
44 character and design of the building;  
45

46 b. Variances shall only be granted upon (i) a showing of good and  
47 sufficient cause, (ii) a determination that failure to grant the variance

1 [would result in hardship] upon or victimization of the public, or conflict  
2 with existing local laws or ordinances.

3  
4 (13) Any applicant to whom a variance is granted shall be given written notice  
5 specifying the difference between the base flood elevation and the elevation to  
6 which the structure is to be built and stating that the cost of flood insurance will  
7 be commensurate with the increased risk resulting from the reduced lowest floor  
8 elevation.

9  
10 (14) The village commission shall maintain the records of all variance actions  
11 and report any variances to the Federal Emergency Management Agency upon  
12 request.

13  
14 (15) Review and appeal. Review of any decision or action of the village  
15 commission pursuant to this chapter shall be to the Dade County Environmental  
16 Quality Control Board, in accordance with the procedures set forth in section 24-6  
17 of the Code of Miami-Dade County, Florida. Any person aggrieved by any  
18 decision of the Dade County Environmental Quality Control Board on an appeal  
19 may seek judicial review in accordance with the Florida Rules of Appellate  
20 Procedure.

### 21 22 **ARTICLE III. DEVELOPMENT STANDARDS**

#### 23 24 **Sec. 6.5-26. Standards for development in a special flood hazard (SFH) area, or area** 25 **outside of a special flood hazard area.**

26  
27 The Village Building Official is responsible for the administration and enforcement of this  
28 chapter and shall:

29  
30 (1) Require development permits for all proposed construction or other improvement within  
31 said areas.

32  
33 (2) Review permit applications for repairs within said areas to determine that the proposed  
34 repair:

35 a. Uses construction materials and utility equipment which are  
36 resistant to flood damage; and

37 b. Uses construction methods and practices which will minimize  
38 flood damage.

39  
40 (3) Review permit applications for new construction or substantial improvements within said  
41 areas to assure that the proposed construction:

42 a. Is protected against flood damage;

43 b. Is designed (or modified) and anchored to prevent flotation,  
44 collapse or lateral movement of the structure;

45 c. Uses construction materials and utility equipment which are  
46 resistant to flood damage, and also uses construction methods and practices which  
47 will minimize flood damage; and



d. Provides in the plans section of the development permit application the appropriate federal flood zone, base flood elevation, crown of road information, and Miami-Dade County flood criteria.

(4) Review proposed new developments to assure that:

- a. All such proposals are consistent with the need to minimize flood damage;
- b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, or constructed to minimize or eliminate flood damage; and
- c. Adequate drainage is provided so as to reduce the exposure to flood hazards.

(5) Require new or replacement water supply systems and sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters and discharges from the systems and plants into flood waters, and require on-site waste water disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(6) Require a lowest floor elevation certification or floodproofing certification before tie-beam inspection and after the lowest floor is completed. Upon placement of the lowest floor, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Village Building Official said as-built certification as built in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Village Building Official shall review the elevation certification submitted, deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections shall be cause to issue a stop-work order for the project.

(7) Require that all new proposed developments include within such proposals base flood elevation data, existing grade and crown of adjacent road elevations, and Miami-Dade County flood criteria.

(8) Obtain, review and reasonably utilize any base flood elevation available from a federal, state, or other source, including data developed pursuant to subsection (7), as criteria for requiring that new construction, substantial improvements, or other development in zone A on the community's FIRM meet the standards in this chapter.

(9) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. 1334.

(10) All records pertaining to the provisions of this chapter shall be maintained in the office of the municipal official and shall be open for public inspection.

(11) Review proposed development to assure that:

1 a. No use shall be made for other than crop, grove, nursery and grazing  
2 purposes, or similar uses, and no building of any type shall be constructed, erected  
3 upon or moved to any land below the elevation established by the county flood  
4 criteria map as adopted by the board of county commissioners, or the back of  
5 sidewalk elevation of the road fronting the property, or if there is no sidewalk, the  
6 elevation of the crown of road or street abutting such building site, whichever is  
7 higher.

8 b. For uses other than residential requiring a floor, the floor elevation shall  
9 be a minimum of four (4) inches above the elevation established by the county  
10 flood criteria map, or the back of sidewalk elevation, or if there is no sidewalk,  
11 the elevation of the highest crown of road or street abutting such building site,  
12 whichever is higher, or if the road has no crown, then the highest edge of cross  
13 section of the road shall apply. For all residential uses, the floor elevation shall be  
14 a minimum of eight (8) inches above the elevation established by the county flood  
15 criteria map, or the back of sidewalk elevation, or if there is no sidewalk, the  
16 elevation of the highest crown of road or street abutting such building site,  
17 whichever is higher, or if the road has no crown, then the highest edge of cross  
18 section of the road shall apply.

19 c. In all cases and for all uses, when the property is located in a special flood  
20 hazard area, as determined by the flood insurance rate map for the Village of  
21 Biscayne Park, Florida, the floor elevation obtained as above described, shall be  
22 compared against the base flood elevation shown on the flood insurance rate map  
23 and the higher of the two (2) shall be used for design and construction.

24 d. The provisions of this subsection shall not apply to off-street parking  
25 facilities constructed underground and other similar types of below grade areas  
26 within a building which are not lowest floor and contain neither electrical nor  
27 mechanical equipment. All such facilities constructed below grade shall be  
28 designed and constructed and contain essential equipment, if necessary, to prevent  
29 infiltration and accumulation of water or to provide for immediate and continuous  
30 elimination of water. A Florida registered engineer or architect shall submit data  
31 and a floodproofing certificate to assure that the design complies with all  
32 guidelines of subsection 6.5-4(b).

33  
34 (12) If in the review of a development application within the Village of Biscayne Park, it is  
35 determined that in the application of the provisions of this subsection the applicant would be  
36 otherwise required to provide flood protection in excess of the requirements of this chapter, then  
37 it shall be the responsibility and authority of the Village Building Official, or his designee, to  
38 review such plans and may grant a variance to the requirements of this subsection to provide  
39 flood protection which is no less than the flood protection required by this chapter based upon  
40 good engineering practice. Said decision shall be subject to appeal in accordance with subsection  
41 6.5-18(d)(15).

#### 42 43 **Sec. 6.5-27. Standards for development within special flood hazard (SFH) areas.**

44  
45 (a) No new construction or substantial improvement of any residential structure or  
46 manufactured home shall be permitted in SFH areas, and no development permit referred to in  
47 subsection 6.5-26 of this chapter shall be issued therefor, unless said new construction or

substantial improvement has the lowest floor (including basement) elevated to or above the level of the regulatory flood (100-year flood). Electrical, plumbing and other attendant utilities are prohibited below the base flood elevation.

(b) No new construction or substantial improvement of any nonresidential structure shall be permitted in SFH areas, and no development permit referred to in subsection 6.5-26 of this chapter shall be issued therefor, unless said development has the lowest floor (including basement) elevated to or above the level of the base flood (100-year flood). If the lowest permitted floor level of such nonresidential structure (including basement) is below the regulatory flood level then such nonresidential structure together with attendant utility and sanitary facilities shall be floodproofed to one (1) foot above the level of the base flood; provided that the lowest floor level of such nonresidential structure (including basement) shall be not more than ten (10) feet below the base flood level. Where floodproofing is utilized for a particular structure, a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depth, pressures, velocities, impact and uplift forces associated with the base flood, and a record of such certificates indicating the specific elevation (in relation to mean sea level) to which such structure is floodproofed shall be maintained with the Village Building Official.

(c) All recreational vehicles placed within this area shall either:

- (1) Be fully licensed and ready for highway use;
- (2) The recreational vehicle shall meet all the requirements for new construction, including anchoring and elevation requirements of subsection (c); or
- (3) Be on the site for fewer than one hundred eighty (180) consecutive days. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by disconnect type utilities and security devices and has no permanently attached structures.

(d) Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundations and other exterior walls below the base flood elevation shall be designed to preclude finished living space except allowable uses i.e. parking, limited storage and building access and shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either meet the following minimum criteria or be certified by a professional engineer or architect:

- (1) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
  - (2) The bottom of all openings shall be no higher than one (1) foot above grade; and
  - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
- Electrical, plumbing, and other utility connections are prohibited below the base flood elevation.

1  
2 Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles  
3 (garage door), (standard exterior door), or entry to the living area (stairway or elevator); the  
4 interior portion of such enclosed area shall not be partitioned or finished into separate rooms or  
5 air conditioned.  
6

7       **Section 3.** It is the intention of the Village Commission of the Village of  
8 Biscayne Park, Florida that the provisions of this ordinance shall become and be made a part of  
9 the Village of Biscayne Park Code of Ordinances. The sections of this ordinance may be re-  
10 numbered or re-lettered and the word "ordinance" may be changed to "section," "article," or such  
11 other appropriate word or phrase in order to accomplish such intentions.

12  
13       **Section 4.** All Ordinances or parts of Ordinances, Resolutions or parts of  
14 Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.  
15

16       **Section 5.** If any clause, section, or other part or application of this Ordinance  
17 shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such  
18 unconstitutional or invalid part or application shall be considered as eliminated and so not affecting  
19 the validity of the remaining portions or applications remaining in full force and effect.  
20

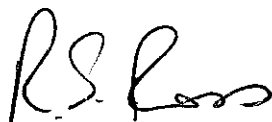
21       **Section 6:** This Ordinance shall become effective on adoption.

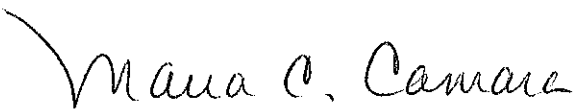
1 The foregoing Ordinance was offered by Commissioner Bernard, who moved its  
2 adoption. The motion was seconded by Vice Mayor Anderson.

3  
4 PASSED AND ADOPTED upon second reading this 1st day of November, 2011.


5  
6  
7 **FIRST READING: September 13, 2011.**

8 **SECOND READING: November 1, 2011**

9  
10  
11  
12   
13  
14  
15 \_\_\_\_\_  
16 Roxanna Ross, Mayor

17  
18  
19   
20  
21 \_\_\_\_\_  
22 Maria C. Camara, Village Clerk

23  
24 Approved as to form:

25  
26  
27   
28 \_\_\_\_\_  
29 Village Attorney

**The foregoing ordinance upon being put  
to a vote, the vote was as follows:**

Mayor Ross: Yes  
Vice Mayor Anderson: Yes  
Commissioner Bernard: Yes  
Commissioner Childress: Absent  
Commission Cooper: Yes